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CHAPTER 7. DUTY AND LEAVE

7.01 SCOPE

These instructions supplement the basic policies in MP-5, part II, chapter 7, governing duty and leave for nonphysician facility Directors, physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PA's (physician assistants), and EFDA's (expanded-function dental auxiliaries) in VHA appointed under authority 38 U.S.C. ch. 73 and 74 and provide duty and leave provisions for noncareer residents. Unless otherwise indicated: any reference to employee or employees will mean both full- and part-time employees; any reference to full-time physicians or dentists will include medical or dental career residents, as appropriate; and the term "nurse" will include nurse anesthetists but will not include the Assistant Chief Medical Director for Nursing Programs. The hours of duty and leave provisions contained in the chapter for full-time physicians, dentists, podiatrists, and optometrists appointed under 38 U.S.C. 7306 will apply to the Assistant Under Secretary for Health (118).

7.02 REFERENCES

- a. 38 U.S.C. ch.73 and 74
- b. MP-5, part II, chapter 7
- c. MP-5, part II, chapter 3
- d. MP-5, part I, chapters 610 and 630
- e. The Federal Personnel Manual
- f. MP-4, part II and VHA Supplement, MP-4, part II
- g. VA Manual M-8, Parts II, III and IV

7.03 AUTHORITY AND RESPONSIBILITY

a. Legal Authority. Title 38, United States Code, section 7421 authorizes the Secretary to prescribe, by regulation, the hours and conditions of employment and leaves of absence of employees under this chapter.

b. Under Secretary for Health is responsible for the overall direction and administration of the duty and leave policies and instructions for VHA.

c. Facility Directors. These officials are responsible for administering the duty and leave policies and instructions at facilities as provided herein.

d. Persons Authorized To Approve Leave. The Under Secretary for Health and facility Directors are authorized to approve or disapprove leave for employees within their jurisdiction subject to the provisions of this chapter. These officials may designate employees to exercise this authority for them, except where the specific provisions of this chapter limit such authority to them only. Persons authorized to approve leave are also responsible for advising employees properly on leave matters and to guard against abuses of leave privileges.

Authority: 38 U.S.C. 7304; 38 U.S.C. 7421

7.04 GENERAL PROVISIONS

The proper care and treatment of patients shall be the primary consideration in scheduling hours of duty and granting of leave under these instructions. The basic policies covering duty and leave are contained in MP-5, part II, chapter 7.

a. Full-time Central Office, VA outpatient clinic and regional office outpatient clinic employees will normally perform duty Monday through Friday of each workweek, the remaining 2 days (Sunday, the first day of the workweek and Saturday, the last day of the workweek) being designated as the administrative nonduty days of the workweek for non-physician facility Directors, physicians, dentists, podiatrists, and optometrists or the days off for nurses, nurse anesthetists, PA's and EFDA's. Unusual circumstances may make it necessary, however, for the Under Secretary for Health, Chief Consultants or facility Directors, as appropriate, to alter these provisions for specific individuals or groups of individuals in the best interests of the service.

b. Because of the continuous nature of the services rendered at hospitals, the facility Director, or designee (in no case less than a chief of service), has the authority to prescribe any tour of duty to insure adequate professional care and treatment to the patient, consistent with the provisions of MP-5, part II, chapter 7.

c. In the exercise of the authority to prescribe tours of duty, it will be the policy (1) to prescribe individual hours of duty as far in advance as is possible, (2) to schedule the administrative nonduty days or the days off of each workweek on consecutive days, where possible, (3) to arrange for continuous medical supervision required by policy in M-2, Part I, Chapter 4, "Medical Officer of the Day," and (4) to give each full-time employee every possible consideration in arranging schedules so long as such consideration is compatible with the professional obligation to the patients.

d. Part-time employees perform duty on less than a full-time basis under a prescheduled regular tour of duty. Such employees may perform occasional unscheduled duty in addition to the regular tour of duty. Employees serve on an intermittent duty basis when employed on less than a full-time basis with no prescheduled regular tour of duty. Timekeeping practices will reflect the actual hours worked by part-time and intermittent employees. Facility Directors will assure accurate daily reporting on time and attendance reports of time worked and for which the employee is entitled to salary

e. It is recognized that additional flexibility's pertaining to prescheduled tours of duty for part-time physicians are needed to accommodate the unique needs and varying circumstances of health care facilities. For example, part-time surgeons at active affiliated facilities with extensive patient care, research, and educational responsibilities may frequently encounter emergencies and other unanticipated obligations that require them to depart from their scheduled tour of duty. Under such circumstances, it is difficult for management to administratively change or adjust the prescheduled tour and communicate this to the timekeeper in a timely manner. Adjustable work hours provide a means for minimizing this problem. After assessing their particular needs, facility Directors may authorize the use of adjustable work hours for part-time physicians as determined appropriate and necessary. See appendix 7A for procedures for implementing adjustable work hours.

Authority: 38 U.S.C. 7421

7.05 ANNUAL LEAVE

a. General. Career residents accrue annual leave at the rate of 30 days per leave year. However, they normally will not be granted over 15 days of annual leave during each year of training except under unusual or emergent circumstances.

b. Charging Annual Leave

(1) General. For the purpose of charging annual leave to all eligible employees, the following will be considered as days on which work is performed:

- (a) Sick leave.
- (b) Military leave.
- (c) Court leave.
- (d) All authorized absences as sent forth in paragraph 7.08.

(2) Full-Time Nurses, Nurse Anesthetists, PA's and EFDA's and Part-Time Employees. Except as provided in subparagraph (3) below, the minimum charge of annual leave for these employees is one quarter hour (15 minutes) and multiples thereof. When leave is charged because of absence from duty or tardiness, the employee will not be required to work during the period covered by the leave.

(3) Full-Time Nurses and Nurse Anesthetists on the Baylor Plan. Such nurses and nurse anesthetists shall be charged 1.667 hours of annual leave for each hour of annual leave taken. Leave shall be charged only for absences from the basic workweek. (For the definition of basic workweek for these employees, see par. 4b, ch. 7, VA Manual MP-5, pt. II.)

(4) Full-Time Nonphysician Facility Directors, Physicians, Dentists, Podiatrists and Optometrists

(a) Minimum Charge. The charge of annual leave for these employees is 1 calendar day. Charges for leave in excess of 1 day will be in multiples of 1 calendar day. When a scheduled day's work extends over portions of 2 calendar days, leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days.

(b) Method of Charge. The conditions of duty, leave, and administrative nonduty days which prevail during any one week (Sunday through Saturday) will determine the nature of the charge to annual leave which is made for absence during that particular week in applying the provisions below, with the one exception as indicated in subparagraph 3 below. It is immaterial for the application of these provisions whether or not the administrative nonduty days (a) fall on weekends, (b) are consecutive days of the week, or (c) are consistently the same 2 days of each week.

1. If no duty is performed during the workweek, the employee will not be authorized any administrative nonduty days, and the entire 7 days of the workweek (Sunday through Saturday) will be charged to annual leave. If a holiday or an in-lieu day occurs in the calendar week, that day will not be charged to annual leave.

2. If duty is performed on at least 1 or more days during the workweek, any approved periods of annual leave during that same week will be charged on a day-for-day basis, subject to the conditions of subparagraph 3 below.

3. All administrative nonduty days which fall wholly within a period of approved annual leave will be charged to annual leave. Holidays or in-lieu days will not be charged to annual leave.

4. Examples of charge.

a. Employee "X" has a scheduled tour of duty Monday through Friday and requests 2 weeks' annual leave. The first duty day missed will be a Monday and the last duty day missed will be a week from the following Friday. Applying subparagraph 1 above, no duty being performed in either of the 2-week periods, then all 7 days (Sunday through Saturday) of each week is charged to annual leave. Employee "X" therefore is charged 14 days annual leave.

b. Employee "Y" is scheduled to have Wednesday and Thursday as administrative nonduty days during a particular week. Employee works on a Sunday and takes annual leave Monday through Saturday of that week. Applying subparagraph 3 above, the entire 6-day period, Monday through Saturday, would be charged to annual leave.

c. Employee "Z" has Sunday and Monday (the first 2 days of the week) scheduled as administrative nonduty days. On Tuesday morning, "Z" calls in by telephone and requests

annual leave for the remaining days of the week, Tuesday through Saturday. If this request is granted then no duty would be performed during that workweek, and applying subparagraph 1 above, all 7 days of the week would be charged to annual leave.

d. Employee "A" has a scheduled tour of duty Monday through Friday and requests annual leave for the entire week. The first duty day missed will be Monday and the last duty day missed will be Friday which is a national holiday. Since no duty is performed during the workweek Sunday through Saturday, the charge to annual leave for employee "A" is 6 days (Sunday through Thursday and Saturday) as provided is subparagraph 1 above. The holiday will not be charged to annual leave.

5. It will be the responsibility of supervisory personnel at all levels to insure that each employee fully understands the manner of charging for authorized annual leave. This is especially important in such cases as described in subparagraph 4c above, wherein it is necessary in accordance with these provision to charge annual leave for a day (or days) on which the employee normally would have been excused without charge to annual leave.

c. Procedure for Requesting Annual Leave.

(1) Annual leave will be requested in advance by all employees except when unusual or unforeseen circumstances prevent the employee from making the request in advance. Under such circumstances, the employee will notify, as soon as possible, the person authorized to approve leave.

(2) Except as provided in subparagraph (3) below, requests for annual leave not in excess of 3 days may be made verbally. If the request is approved, the supervisor will report the amount of leave to be taken to the unit timeclerk who will make proper posting daily on the time and attendance report. Where practicable, the employee will be required to initial the time and attendance report prior to the commencement of the leave period. Requests for leave of more than 3 days will be made on SF 71, Application for Leave, and will be submitted in advance to the person authorized to approve leave.

(3) Full-time nurses and nurse anesthetists on the Baylor Plan may verbally request 2 workdays of annual leave. Requests for leave of more then 2 workdays shall be made on an SF 71 and submitted in advance to the person authorized to approve leave.

NOTE: Any requests, submitted by nurses, nurse anesthetists, PA's, and EFDA's for annual leave in proximity to overtime by the same employee will be reviewed to assure that the granting of annual leave is in the interest of good administrative practice.

d. Advanced Annual Leave

(1) Annual leave may be advanced at any time during the calendar year.

(2) All credits of annual leave which become due while there is an indebtedness of annual leave will be applied to the reduction of the indebtedness.

e. Leave in Connection With Travel

(1) Employees traveling at Government expense are in a duty status for the period required to perform the travel authorized unless the total elapsed travel time is excessive. If travel is interrupted or delayed for the convenience of the employee, leave will be charged for the period of interruption or delay. Where an employee has been authorized to travel by privately owned conveyance for the individual's convenience, leave will be charged for travel time during the employee's regularly scheduled basic workweek in excess of that which would have been required had travel been performed by the carrier used to determine per diem allowance, as provided in MP-1, part II, chapter 2, paragraph 8. When use of privately owned conveyance is authorized or approved as being advantageous to the Government, and the employee uses excessive travel time to enable the individual to be absent from assigned duties for such purposes as the taking of leave or the performance of circuitous travel, leave shall be charged for the excessive time. The period to be charged to leave will be based on the facts in each case. Where absence for a part of a day is involved, paragraph 7.08b is appropriate as a guide in determining the charge to leave for excessive absence by an employee who travels by privately owned conveyance for the individual's convenience.

(2) Travel time used to transfer from one facility to another, when the transfer is arranged for reasons other than for the convenience of the Government, will be charged to annual leave or to leave without pay when annual leave is not available.

f. Involuntary Leave. Employees may be placed on involuntary annual leave when the needs of the service dictate. When an employee reasonably may not be regarded as ready, willing and able to work, the employee may be placed on involuntary annual leave or in a leave without pay status, as the employee's leave account and the circumstances may require.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.06 SICK LEAVE**a. Charging Sick Leave**

(1) For the purpose of charging sick leave to all eligible employees, the following will be considered as days on which work is performed:

- (a) Annual leave
- (b) Military leave
- (c) Court leave
- (d) All authorized absences as set forth in paragraph 7.08.

(2) The minimum sick leave charge for full-time nonphysician facility Directors, physicians, dentists, podiatrists, and optometrists is 1 calendar day and multiples thereof. When a scheduled day's work extends over portions of 2 calendar days, sick leave will be charged for the day on which the greater part of the day's work falls, or for the first day when the day's work is equally divided between 2 calendar days. No charge to sick leave will be made for absence of these employees on administrative nonduty days occurring immediately prior to a period of approved sick leave or following the termination of sick leave. Sick leave will be charged, however, for any administrative nonduty days occurring wholly within a period of approved sick leave. Holidays and in-lieu days granted therefor will not be charged to sick leave.

(3) Except as provided in subparagraph (4) below, the minimum sick leave charge for full-time nurses, nurse anesthetists, PA's, and EFDA's and part-time employees is one quarter hour (15 minutes) and multiples thereof. Sick leave for these employees will be charged as approved and used.

(4) Full-time nurses and nurse anesthetists on the Baylor Plan shall be charged 1.667 hours of sick leave for each hour of sick leave taken. Leave shall be charged only for absences from the basic workweek.

b. Procedure for Requesting and Approving Sick Leave for All Employees.

(1) Responsibility for Approving Sick Leave. It is incumbent on every individual responsible for approving applications for sick leave to ascertain that the circumstances of absence justify approval, and that sick leave is available. If for any reason an employee's statement or the medical certificate furnished is not considered satisfactory, the person authorized to approve leave will take necessary steps to obtain additional evidence in support of the employee's request for sick leave.

(2) Notification of Illness. An employee who is absent from duty on account of sickness will notify the person authorized to approve leave or other appropriate persons as early as practicable on the first day of such absence or as soon thereafter as possible.

(3) Submission of Application. Sick leave not in excess of 3 days (two workdays for full-time nurses and nurse anesthetists on the Baylor Plan), may be approved without a written application (SF71) or without a medical certificate. However, in cases that indicate excessive absence on account of illness or where there appears to be an abuse of the sick leave privilege, medical certificates may be required for any period of absence provided the employee has been informed in advance, in writing, that such a requirement has been established for that person. A written application for sick leave (SF 71) is required for absences for more than 3 days (2 workdays for full-time nurses and nurse anesthetists on the Baylor Plan) and will be filed within 2 days after the employee's return to duty. This application will be supported by a medical certificate or other evidence administratively acceptable, e.g., where a doctor is not available or where the employee's illness does not require a doctor, proper certification by the employee on SF 71 may be

accepted instead. Medical certificates or other evidence of illness which may be required will be submitted with 15 days after the employee's return to duty.

(4) Medical Examination for Employees Who Are VA Claimants or Beneficiaries. Employees who are ordered by proper authority in VA to report for physical examination or observation as claimants or beneficiaries of the VA will be granted sick leave. "Authorized absence" will not be granted for this purpose. (See par. 7.08j for type of leave granted for medical examinations of employees who are not VA claimants or beneficiaries.)

(5) Medical Treatment for Disabled Veteran-Employees. On presentation by a veteran employee who has a service-connected disability or any other disability of a statement from medical authority that treatment is required, annual or sick leave will be granted, if available; otherwise, LWOP will be granted. The granting of such leave is mandatory provided that the veteran gives prior notice of definite days and hours of absence for medical treatment (Executive Order 5396, dated July 17, 1930).

(6) Sickness During Annual Leave. When sickness occurs during a period of annual leave of any employee, the period of illness may be charged as sick leave and the charge against annual leave reduced accordingly. Application for such substitution of sick leave for annual leave will be made promptly and will be supported by a medical certificate or other evidence determined to be acceptable.

(7) Sick Leave During LWOP. When sickness occurs during an approved period of LWOP and lasts 3 or more consecutive days (2 or more consecutive workdays for full-time nurses and nurse anesthetists on the Baylor Plan), the period of illness may be charged to sick leave of an employee, in accordance with provisions set forth below. It is incumbent on the facility to inform the employee when approving LWOP of the provisions of these subparagraphs with particular emphasis on subparagraph (a) below.

(a) Employee immediately on becoming incapacitated notifies the individual's supervisor of illness; or, if unable to do so promptly because of the serious nature of the illness, notifies the supervisor as soon thereafter as possible. The supervisor will advise the employee of the receipt of the notice and that copy of the notice, with the copy of communication from the supervisor, will be made a matter of record in the employee's personnel folder.

(b) Illness will be substantiated by a medical certificate or other acceptable evidence of illness following recovery. At the time the supervisor advises the employee of the receipt of the notification of illness, the employee will also be advised that the provision of this subparagraph will be met promptly.

(c) Sick leave may not be granted during LWOP, but on actual return to duty substitution will be made for the period of illness providing foregoing requirements are met. Under no circumstances will sick leave be advanced to cover illness which has occurred during a period of LWOP.

c. Advanced Sick Leave

- (1) A request for advanced sick leave will be supported by a medical certificate.
- (2) A full-time employee who is injured in line of duty and who has exhausted accrued and accumulated sick leave, and who is not in receipt of employees' compensation benefits, may, at the discretion of the approving official, be advanced sick leave not in excess of the maximum outlined in MP-5, part II, chapter 7.
- (3) All accruals of sick leave which become due while an employee is indebted for sick leave will be applied to the indebtedness. Advanced sick leave may also be liquidated, at the employee's request, by a charge against an equivalent amount of annual leave provided:
 - (a) The annual leave is substituted prior to the time it would be forfeited.
 - (b) The approving official would have been willing to grant the annual leave had the employee requested it.
- (4) Only the Under Secretary for Health and facility Directors or their designees are authorized to grant advanced sick leave.

d. Leave for Pregnancy and Confinement

- (1) The services of employees who are pregnant should be utilized to the extent their health will permit. However, such utilization may not extend beyond the period when an employee fails to meet the physical requirements of the assignment. Therefore, employees will be encouraged to report pregnancy as soon as it is an established fact. The earliest possible knowledge of such condition will provide the opportunity to protect the employee's health and permit such planning as may be necessary for staff adjustment during the employee's prospective absence.
- (2) Pregnancy and the physical condition incident thereto will ordinarily be established from medical evidence submitted by an employee's personal physician. However, in those cases when there is any question as to an employee's physical ability to perform her duties without hazard to the employee's health, examination by the facility personnel physician or other appropriate staff physician will be conducted. The date during an employee's pregnancy on which the employee reaches the point of being incapacitated for duty will be determined medically according to the circumstances of the individual case.
- (3) Employees will be granted accumulated and accrued sick leave consistent with the medical need therefor, when it has been established that they are unable to perform their duties due to pregnancy. In addition, advanced sick leave, annual leave, advanced annual leave, and LWOP may be authorized consistent with the provisions of this chapter.

(4) An employee who expresses the intention to resign because of pregnancy will be informed of entitlement to accumulated and accrued sick leave, consistent with the medical need therefor.

e. Contagious Disease

(1) Sick leave will be granted:

(a) When a member of the immediate family of the employee is afflicted with a contagious disease and requires the care and attendance of the employee.

(b) When, through exposure to contagious disease, the presence of the employee at the post of duty would jeopardize the health of others.

(2) The use of sick leave for contagious disease is authorized in connection with quarantine, isolation, and restriction of movement by the patient or employee. The determination that the disease is contagious will be made by health authorities having jurisdiction, whether the employee or patient is at home or in some other area.

f. Involuntary Sick Leave. Employees who because of illness (mental or physical) are unable to perform their duties may be placed on involuntary sick leave. Such sick leave will be terminated when the employee presents himself or herself for duty and it is determined by competent medical authority that the individual is able to perform his/her duties.

g. Prolonged Illness

(1) Employees who are not expected to return to duty because of prolonged incapacitation will, where possible, be granted all available sick leave and such annual leave that cannot be included in lump-sum payment.

(2) Employees who can reasonably be expected to return to duty after a prolonged period in incapacitation may be advanced sick leave and annual leave or granted LWOP.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.07 RELIGIOUS, STATE AND LOCAL HOLIDAYS

a. Religious Holidays. While there is no official observance of religious holidays, except those which may also be national holidays, it is the policy of VA to permit, when practicable, absence from work for those employees who desire to observe religious holidays. Employees may, under provisions of Public Law 95-390, approved September 29, 1978, and applicable regulations, elect to work compensatory overtime for the purpose of taking time off without charge to leave when their personal religious beliefs require that they abstain from work during certain periods of the workday or workweek, thereby avoiding an annual leave or leave without pay charge.

b. State and Local Holidays. If a facility is closed on a State or local holiday because it is determined that Federal work may not be properly performed as provided in MP-5, part I, chapter 610, absence on such day is not chargeable to leave for an employee of the facility. Such approved time off is considered authorized absence without charge to leave.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.08 ABSENCES NOT COVERED BY LEAVE

An authorized absence is an absence administratively approved, which does not result in a charge to leave of any kind, or in loss of basic salary. The following will be used as the *guide* in determining the types of absences from duty which may be authorized without charge to leave.

a. Rest and Relaxation. The Under Secretary for Health and facility Directors or the professional person acting for them are authorized to approve absence for not to exceed 24 consecutive hours for rest and relaxation for full-time physicians, dentists, podiatrists, and optometrists who have been required to serve long hours in the care and treatment of patients.

b. Tardiness or Absence for Part of a Day

(1) A full-time nonphysician facility Director, physician, dentist, podiatrist, or optometrist will be charged a full day's leave for absence for a part of a day, unless the absence is excused by officials authorized to approve leave. This authority to approve absence for tardiness and absence for portions of a day will be exercised only when such absence from duty is of short duration and will not be interpreted to cover absences of a major portion of the day wherein annual or sick leave should be properly charged.

(2) It is incumbent of supervisory officials to insure that full-time nurses, nurse anesthetists, PA's, and EFDA's and part-time employees discharge their obligation to the VA in terms of the number of hours for which payment is made and the number of hours actually worked in accordance with the preestablished tour of duty. An unavoidable or necessary absence from duty and tardiness of less than 1 hour may be excused. In other instances, absences or tardiness will be charged to annual leave, LWOP (with the employee's consent), or absence without leave, as appropriate. The charges to leave will come as a result of appropriate reporting on the time and attendance report.

(3) Repeated instances of tardiness or unexcused absences during scheduled working hours will be considered as a disciplinary matter under the provisions of MP-5, part II, chapter 8, or as a matter for appropriate action with regard to probationary employees and temporary full- and part-time employees under the applicable provisions of chapters 4 and 9 this manual.

c. Hearings Before Federal Boards, VA Boards and Committees. Absence of employees required to appear before Federal boards, before VHA boards, or before other VA boards or committees as witnesses or as participants in the matter under consideration will be approved without charge against leave.

d. Injury in Line of Duty. An employee who suffers a duty-connected injury or illness shall be excused without charge to leave for *initial* examination or outpatient treatment (including local travel time) by a United States medical officer or hospital, or any duly qualified physician or hospital of the employee's choice. Any absence from duty the first full workday (or shift) after the illness or injury, however, shall be charged to sick leave, LWOP or continuation of pay (see MP-5, pt. 1, ch. 810), as appropriate.

e. Voluntary Participation in Civic Health Programs. Absence of employees who participate in civic health programs such as mass chest X-rays and mass vaccinations or immunizations, uncompensated blood donor programs, etc., may be approved without charge to leave for this purpose. Participants in an uncompensated blood donor program may be excused without charge to leave for any portion of the day blood is donated which may be desirable for rest and recuperation.

f. Administratively Required Vaccinations and Immunizations. Time used for administratively required vaccinations or immunizations will not be charged against employee's leave.

g. Conventions, Conferences, and Professional and Scientific Meetings

(1) Prior approval of the Secretary or Deputy Secretary, is required for attendance at national conventions of veterans' service organizations as a representative of the VA. When approved, such absence will be without charge to leave.

(2) Facility Directors, or their designees, are authorized to approve the absence of full- and part-time employees to attend international, national, sectional, State and local medical, dental, nursing, and scientific meetings and conferences held in the United States, U.S. Territories and Possessions, and Puerto Rico. The Under Secretary for Health, or a designee, may approve similar absences for Central Office employees. Absences without charge to leave may be authorized for the necessary time to attend such meetings and conferences, including the allowed travel time not to exceed the time required for air travel. Approvals as specified in M-8, part IV, chapter 2 must be obtained before these absences are authorized. Requests involving authorized absence to attend activities outside the United States must be approved in accordance with M-8, part V, chapter 6. Intermittent employees will not be granted authorized absence under this policy.

h. Education and Training. Facility Directors, or their designees, are authorized to approve without charge to leave the absence of full-time employees to attend education and training activities (lectures, seminars, courses of instruction, etc.) in accordance with the provisions of M-8, part IV, chapter 2. The Under Secretary for Health or Chief Consultants may authorize such absences for Central Office employees. (NOTE: *Any*

approvals required by M-8, pt. IV, ch. 2, will be secured before these absences can be authorized.) Part-time staff appointed under section 7405(a)(1) (A) may be similarly granted authorized absence from scheduled duty for the purpose mentioned herein. Intermittent employees will not be granted authorized absence for this purpose.

i. Teaching

(1) Full-time employees may accept *teaching* responsibilities in private and public colleges and universities, provided the teaching obligations do not conflict with the performance of their duties in VHA. Absences resulting from such teaching assignments if no remuneration is involved may be excused without charge to leave.

(2) This policy permits part-time employees to fulfill teaching responsibilities in private and public colleges and universities when it serves the VA mission of veteran patient care or the education of VA employees. Absences resulting from such teaching assignments if no remuneration is involved may be excused without charge to leave. (This does not preclude the granting of annual leave or leave without pay where remuneration is involved.)

j. Medical Examinations

(1) No charge for absence will be made against the leave of an employee who is designated by proper VA authority to report to a VA Medical Center or other VA facility with medical facilities for medical examination or observation to determine fitness to remain on duty or for the purpose of recommending retirement from civil service employment.

(2) No charge will be made for necessary absences of an employee who is required to report for annual physical examination, chest X-ray, or other types of medical examinations required in connection with VA employment.

(3) Employees ordered to undergo physical examinations to determine their fitness for extended active duty in the Armed Forces, and who do not receive military pay and allowances from the Armed Forces for this period, will be excused without charge to leave for a period not to exceed 1 workday. Absence in excess of 1 workday will be charged to annual leave, or LWOP, if annual leave is not available. Employees who receive military pay and allowances from the Armed Forces will be charged annual leave, or LWOP if annual leave is not available, for the entire period of absence for this purpose.

NOTE: The discretion to excuse employees for medical examination or treatment, subparagraphs j and k, is limited to brief periods, usually 1 day or less. When an initial examination is not completed in 1 day, whether the employee is in or out of the hospital, the employee may be excused without charge to leave for a somewhat longer period than 1 day; however, the additional time to hospitalize an employee after an initial examination or to require additional and more extensive tests and examinations may not be regarded as excused absence without charge to leave or loss of pay, even though

periods of duty may intervene between the initial examination of an employee and the additional test, examinations or hospitalization that may be necessary as a result of the initial examinations.

k. **Medical Treatment.** Employees may be excused for visits to the dispensary or other emergency facility for treatment of a minor illness.

1. **Examinations.** Absences of physicians, dentists and residents to undergo an American Specialty Board examination, podiatrists and optometrists to undergo examination by an approved specialty board, nurses to undergo examination for certification by an appropriate national certifying body, and physician assistants to undergo the official Physician Assistant Certification Examination prepared by the National Board of Medical Examiners and graduate nurse technicians for registration, will be authorized. The amount of absence authorized will not exceed the time actually required for taking the examination and for travel to and from the place of examination. Any additional absence will be charged to annual leave, or LWOP if annual leave is not available.

m. **Pending Emergency Suspension.** Ordinarily, an employee will be retained in a pay and active duty status during an inquiry or investigation into an incident of misconduct or pending a decision on a proposed discharge. In instances where it is determined that an employee's continued presence at work might reasonably pose a threat to the employee or others, result in loss of or damage to Government property, or otherwise jeopardize legitimate Government interests, the employee may be placed in a paid non duty status (i.e., authorized absence for timekeeping purposes) for a brief but reasonable period of time. The facility Director may approve such authorized absence in order to conduct an investigation into the situation and/or to obtain the Under Secretary for Health's decision on a request to effect a suspension (see ch. 8 of this part).

n. **VA Policy.** The authorized absence policy contained in MP-5, part I, chapter 630, is also applicable to employees under this chapter for the following types of absences:

- (1) Absence for Congressional Medal of Honor holders.
- (2) Duty connected injury or illness.
- (3) Change in facility.
- (4) Civil Defense and disaster activities.
- (5) Funerals.
- (6) Meetings with labor organizations and other groups.
- (7) Parades, ceremonies, and civic activities.
- (8) Participation in civic organizations.

- (9) Participation in military funerals.
- (10) Representing labor organizations.
- (11) Voting and registration.
- (12) Weather and emergency situations.
- (13) VA placement matters.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.09 LWOP (LEAVE WITHOUT PAY)

a. General

(1) Leave without pay is a temporary nonpay status and absence from duty to be granted only on the employee's request. The authorization of LWOP is a matter of administrative discretion..

(2) An employee cannot demand that LWOP be granted as a matter of right except in the case of disabled veterans who are entitled to LWOP if necessary for medical treatment under Executive Order 5396; and reservists and National Guardsmen who are entitled to LWOP if necessary to perform military training duties

(3) Employees who are disabled on the job and file claim with the OWCP (Office of Workers' Compensation Programs) may be granted LWOP for the entire period of absence from duty. LWOP may also be granted in cases of employees who have made application for disability retirement. LWOP in these circumstances may be granted until it is judged that the employee will not be able to return to duty and may be granted regardless of whether or not the employee has annual leave.

(a) Substitution of Annual or Sick Leave for LWOP. An employee who is on LWOP pending adjudication of a claim with OWCP may, if the claim is disallowed while still employed, be retroactively granted sick and annual leave.

(b) Substitution of LWOP for Annual or Sick Leave. An employee who has used sick leave or annual leave pending adjudication of an OWCP claim, which is later approved, should be informed by the human resources office about procedures for "buying back" the leave. This can be accomplished by the employee's election to be placed in a nonpay status for the period and by the employee's authorization for the OWCP to reimburse the agency for leave used based on compensation entitlement (with the employee receiving or paying the difference). The substitution should be made promptly and the OWCP will be notified of proposed change in the employee's last day in pay status. For leave record purposes, the request for substitution must be made within 1 year

of approval of the OWCP claim, unless it is administratively determined that the employee was prevented from exercising the employee's option because of the disability which gave raise to the claim. In such case, the employee may exercise the option within 1 year of the time it is determined that the employee has sufficiently recovered from the disability to enable the employee to make a reasoned decision. The employee's election should be in writing and is not subject to revocation.

(c) LWOP in Cases of Extended Absence. In a case where an employee's condition requires extended absence because of duty-connected illness or injury, the length of LWOP granted will be determined on the basis of the nature of the disability and the LWOP criteria contained in this paragraph. If OWCP accepts an employee's claim, but does not determine that the employee is permanently and totally disabled, LWOP should be granted during this period, except in case of an overriding requirement for separation, such as staffing adjustments or removal for cause. LWOP in yearly increments will be granted until it is judged that the employee will not be able to return to duty.

(4) Employees may be granted LWOP for pregnancy and confinement as provided in paragraph 7.06d.

(5) The minimum charge for LWOP for full-time nonphysician facility Directors, physicians, dentists, podiatrists, and optometrists will be 1 calendar day and will be charged in the same manner as annual leave. The minimum charge for full-time nurses, nurse anesthetists, PA's, EFDA's and part-time employees will be one quarter hour (15 minutes).

b. Conditions Which Will Be Met for Approval of Leave Without Pay. Except for the employees indicated in subparagraph a (2), (3) and (4) above, LWOP will not be approved unless the conditions set forth below are met.

(1) There is expectation that the employee will return to duty in the VA at the expiration of the LWOP period. At the discretion of the facility Director the employee may be required to signify such intentions by submitting a signed statement to that effect to be made a matter of record.

(2) The needs of the service with respect to patient care will not be unduly hampered by the employee's absence.

(3) The contribution or service of the employee is such to merit granting LWOP, as evidenced by supervisory evaluation.

(4) It is clearly indicated that one or more of the following advantages will accrue to the service.

(a) The value of the employee will be increased.

(b) Training of the employee in a specialty needed by the VA.

(c) Retention of a capable employee in an area where recruitment of qualified personnel is difficult.

(d) Protection or improvement of employee's health.

c. Notice to Employee. Employees granted LWOP for more than 30 days will be notified in writing by the Chief of Service that:

(1) There is no assurance of their assignment to their former position or facility on the expiration of the approved period of LWOP, although it will be the policy to make every effort to return them to the facility which granted the LWOP, except under the circumstances enumerated below:

(a) When the employee requests reassignment to another facility and there is a suitable vacancy there and both facilities concur in the transfer. Such transfers will be handled by the facilities concerned, if the action normally does not require prior approval of Central Office.

(b) When Central Office may wish to offer the employee assignment elsewhere in the interests of the service. For example, the services of a nurse returning from educational LWOP might be required at another facility as an Associate Chief, Nursing Service for Education.

(c) In the event a staff adjustment is necessary while an employee is on LWOP, the employee is subject to being declared surplus on the same basis as other on-duty employees.

(2) They should communicate with their supervisor at least 2 weeks before the expiration of their LWOP to arrange for their return to duty.

d. Action by the Human Resources Office. The human resources office of the facility which granted the LWOP will maintain necessary controls to insure that a vacancy is available for the return of the employee to duty. In unusual circumstances where it is not possible to return the employee to the facility the employee left, Central Office assistance in placing the employee may be requested.

e. Human Resources Office Records. LWOP for more than 30 calendar days will be documented on Standard Form 52, Request for Personnel Action, forwarded to the Human Resources office for appropriate action and filed in the employee's official personnel folder.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.10 UNAUTHORIZED ABSENCE

a. General. Unauthorized absence is any absence from duty which has not been approved. An employee who is absent without approval for any cause will explain to the person authorized to approve leave, at the earliest practicable time, the cause of this absence and the failure to ask for permission to be absent. If it is found that the employee was absent without sufficient cause, or that the failure to obtain permission to be absent is not satisfactorily accounted for, the time lost will be counted as unauthorized absence and pay will be forfeited in the applicable amount.

b. Charging Unauthorized Absence. The minimum charge for unauthorized absence for full-time nonphysician facility Directors, physicians, dentists, residents, podiatrists, and optometrists is 1 calendar day. The minimum charge for unauthorized absence for full-time nurses, nurse anesthetists, PA's and EFDA's and part-time employees is 15 minutes and multiples thereof

Authority: 38 U.S.C. 7421.

7.11 DISPOSITION OF LEAVE ON TRANSFER, SEPARATION, OR RETIREMENT**a. Lump-Sum Leave Payments**

(1) The provisions of 5 U.S.C. ch. 55, sub ch. VI, which provide for lump-sum payment of annual leave, are for application to employees appointed under 38 U.S. C. ch. 73 and 74. Lump-sum payments are based upon the amount of annual leave to the credit of an employee on the date of separation. There is no authority to grant annual leave immediately prior to separation when it is known in advance that the employee is to be separated except where exigencies of the service require such action (34 Comp. Gen. 61).

(2) Lump-sum payments for full-time nurses and nurse anesthetists on the Baylor Plan are also based on the amount of annual leave to the credit of a nurse or nurse anesthetist on the date of separation. However, the lump-sum payment to such nurse of nurse anesthetist shall be based on the applicable hourly rate of base pay in effect for a similar employee's service outside the Baylor Plan, i.e., the annual rate of basic pay divided by 2080.

(3) Special pay for physicians and dentists is considered basic pay for the purpose of lump-sum leave payments. See 38 U.S.C. 7438.

b. Recredit of Leave-Different Leave System. The OPM (Office of Personnel Management) is authorized by 5 U.S.C. 6308 to regulate on the transfer and recredit of leave when different leave systems are involved. Therefore, OPM Operating Manual 990-1, book III, Civil Service Regulations 630.501 and 630.502, are applicable to employees covered by this chapter. (See VHA Sup., MP-4, pt. II, par. 1D.05, for conversion formula.)

c. Disposition of Annual Leave Account**(1) Changes during employment in VHA**

(a) When an employee is serving in an appointment which provides for leave accrual, and is subsequently converted or appointed without a break in service to another type of appointment which also provides for leave accrual, accumulated and accrued leave will be credited to the Employee's account irrespective of the differences in the accrued rates. For example, an employee serving in an appointment under Section 7401(l) who is converted to an appointment under section 7406 as a resident will have the leave earned under the section 7401(l) appointment credited to the leave account under the latter appointment. *(NOTE: This example assumes the individual would be entitled to payable leave as a resident. If the individual were transferring to a nonpayable leave system, he or she would receive a lump-sum payment for the accrued annual leave.)*

(b) An employee converted to a position in which no payable leave is earned will be given a lump-sum payment as provided in subparagraph a above.

(c) Graduate nurse technicians employed in VHA are covered by 5 U.S. C. ch 63. If the appointment of the graduate nurse technician is converted to a full-time nurse in VHA during the biweekly pay period, the individual will be considered in a graduate nurse technician status for leave purposes until the end of such pay period. Annual leave will be credited under the leave system for nurses from the beginning of the first complete biweekly pay period under the appointment as a registered nurse.

(2) Separation for Advocating Overthrow of the Government of the United States. When separation of an employee is for advocating or being a member of an organization that advocates the overthrow of the Government of the United States by force or violence, no lump-sum payment will be made for annual leave remaining to the employee's credit (23 Comp. Gen. 677).

(3) Death. On the death of an employee, compensation for all accumulated and current accrued annual leave will be paid in an amount equal to the compensation the decedent would have received had the employee remained in the service until the expiration of the period of such annual leave.

d. Credit and Recredit of Sick Leave

(1) Changes During Employment in VHA. An employee serving in an appointment which provides for leave accrual who is subsequently converted or appointed without a break in service to another type of appointment which also provides for leave accrual will be credited with sick leave to the employee's account irrespective of any difference in accrual rates.

(2) **Recredit of Sick Leave.** Sick leave will be recredited an employee on reemployment after a break in service. Sick leave will also be recredited to an employee after being changed from a leave-earning to non-leave-earning status in the service and later being returned to a leave-earning status.

e. **Reemployment During Period Covered by Lump-Sum Payment.** An employee who previously served under the VHA leave system and is reemployed in the VA under an appointment within the purview of the leave provisions of this chapter during the period covered by lump-sum payment will refund to the VA an amount equal to the compensation covering the period between the date of reemployment and the end of the period covered by the lump-sum payment. It is the responsibility of the appointment officer to ascertain if new appointees are entering on duty prior to the expiration of leave represented by lump-sum payment. Collection of required refunds will be made by the employing facility prior to employment. When a hardship would be imposed on a prospective employee by requiring refund of lump-sum payment in full prior to reemployment, the individual may be placed on the rolls and installment collections made by payroll deductions. Arrangements for such deductions will be approved by the Fiscal Officer. Installment deductions will be large enough to permit complete repayment at an early date, and in no event later than 6 months from date of reemployment. The amount of leave represented by the required lump-sum payment refund will not be credited to the employee until the entire indebtedness has been liquidated. The employee will be entitled to take leave earned subsequent to the date of reemployment.

f. Disposition of Leave on Retirement

(1) Disability Retirement

(a) The fact that an employee has executed SF 2801, Application for Retirement, is not to be interpreted as the employee's notice of intention not to return to duty.

(b) Pending decision of OPM on a claim for disability retirement, the employee may be granted currently credited leave before being placed in a nonpay status. However, advanced sick leave will not be granted pending such a claim.

(c) On receipt of approval of the disability retirement from OPM, leave as recommended in OPM Operating Manual 831-1, section S10-11, will be granted.

(2) Optional Retirement

(a) The general rule that an employee retiring on an optional basis may not be granted annual leave immediately prior to separation (sub par. a above) applies to optional retirement.

(b) Any unliquidated advanced leave will be adjusted to date of separation, except when the employee's separation is also due to disability, evidence of which will be

supported by an acceptable medical certificate. In such cases, no adjustment for advanced leave will be required.

g. Restoration of Veterans After Military Service. The provisions of MP-5, part I, chapter 353 will apply to employees who are reemployed in positions which entitle them to the benefits of this chapter.

h. Indebtedness for Advanced Leave on Separation From the Service. An employee will make refund for any unliquidated advanced annual and sick leave on separation. This does not apply in cases of death, retirement for disability, disability supported by an acceptable medical certificate, or entering on active duty in the military service, when such entry is without a break in service from the civilian position. The Fiscal Service will be responsible for initiating action to effect recovery of the indebtedness.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.12 LEAVE FOR FACILITY DIRECTORS

a. Approval. Facility Directors may avail themselves of the following leave and absences without Central Office approval: military or court leave; annual leave; sick leave no in excess of 30 days; and any period of authorized absence not in excess of 5 workdays, exclusive of any travel properly associated with the absence. All other leave and absence will be approved by the Under Secretary for Health or designee.

b. Request for Extended Periods of Sick Leave. Periods of sick leave in excess of accumulative total of 30 days per calendar year will be approved by the Under Secretary for Health or designee. Requests for such leave, supported by medical evidence, will be forwarded to the appropriate VISN (Veterans Integrated Service Network) Director. Depending on the circumstances in each instance, the Under Secretary for Health or designee may:

- (1) Approve all sick leave requested.
- (2) Approve sick leave for duration of illness upon continuous acceptable medical evidence.
- (3) Before making an approval decision, request that a fitness for duty examination be conducted at another VA facility and, if appropriate, that the examination be reviewed by the Physical Standards Board at that facility or at another facility.
- (4) Recommend limited duty through an adjustment in hours or a temporary reassignment or detail to another position.
- (5) If medical evidence is insufficient, disapprove request for sick leave.

(6) If the facts appear to so warrant, counsel the Director about disability retirement, and/or initiate disability retirement in behalf of the employee based upon available medical evidence. In reviewing the medical evidence or in making a decision regarding the approval of sick leave, the Central Office Physical Standards Board will be available to the Under Secretary for Health or designee for advice and assistance.

c. Notice to Central Office. For any period of absence in excess of 5 workdays, facility Directors (or the persons designated to act in their behalf) will notify the Under Secretary for Health through the appropriate VISN Director, specifying the inclusive dates and the nature of the leave. During any period when such officials are in a leave status, they will keep their facilities informed of where they can be reached in the event of an emergency.

Authority: 38 U.S.C. 7421, 38 U.S.C. 7304

7.13 DUTY AND LEAVE FOR NONCAREER RESIDENTS

Duty and leave provisions for full-time physicians and dentists, as contained in MP-5, part II, chapter 7, and this supplement, are applicable to full-time noncareer residents appointed under authority of 38 U.S.C. 7406 except as otherwise indicated below. Noncareer residents appointed on an intermittent basis are not entitled to any leave under the provisions of MP-5, part II, chapter 7, and this supplement, except as specifically provided below. The term "resident" as used in this paragraph refers to noncareer medical and dental residents.

a. Annual Leave

(1) **General.** Facility Directors are authorized to establish a local annual leave system, tailored to conform to the system existent at the index hospital, for all noncareer medical and dental residents subject to the limitations and procedures herein described. The index hospital used for this purpose will be the same index hospital approved by the Under Secretary for Health or designee, and used to establish resident stipends in accordance with paragraph 3A.08, this supplement. Sick leave, military leave, court leave, holidays and holiday in-lieu days, and authorized absence covered under the provisions of subparagraphs b, c, d, e, and f below, in the amounts provided, will not be included in the local annual leave system, whether or not available at the index hospital.

(2) Procedures

(a) Facility Directors will survey their index hospital for a complete description of the operable annual leave system. The annual leave system at the index hospital includes all types of annual leave available for use by the house staff, such as vacation leave, personal leave, death-in-family leave, leave to attend education and training activities (under conditions not authorized by sub par. f below), day off for birthday, etc. For this purpose, each type of annual leave available at the index hospital and accorded to residents will then be classified into one of two categories as follows:

1. Payable. Resident payable leave is defined as leave which is a vested entitlement, payable by the index hospital if not used by the resident.

2. Nonpayable. Resident nonpayable leave is defined as leave which is available for use by the resident at the index hospital, normally subject to certain conditions or approvals, and is not payable by the index hospital if not used. Examples of leave at the index hospital which would be classified as nonpayable include death-in-family leave granted only if the event occurs, leave to attend a meeting or conference not otherwise covered by official VA leave or authorized absence, vacation leave which is lost if not used, personal leave, etc. All leave not fully meeting the definition of payable leave, above, will be classified as nonpayable leave.

After the total leave system of the index hospital has been classified per the above definitions, Directors will establish the VA annual leave plan to match these classifications, on a day-for-day basis. Prior to implementation, and whenever the plan changes in the future, the VA matching annual leave plan will be approved by the Deans Committee. In matching leave systems, 1 full week of leave at the index hospital translates to 7 calendar days of leave in the VA system. However, in the VA, the total of payable and nonpayable annual leave for all purposes available to a resident under the VA matching leave system may not in any event exceed 30 calendar days in a leave year, but may consist of any combination of payable and nonpayable annual leave up to a maximum of 30 calendar days total, in conformance with the plan at the index hospital. If the index hospital provides different annual leave plans among specialties or different annual leave plans depending on level of training, the VA system will match these plans.

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(b) The annual leave plan established at the facility, including applicable regulations and local policy, will be published and distributed by the facility to all residents and other interested parties. Three copies of the annual leave plan will be forwarded for technical review to the Office of the Chief Academic Affiliations Officer (144), Central Office. Additional copies will be forwarded whenever the plan changes.

(c) If both payable and nonpayable annual leave are included in the facility leave plan, then all VA residents with full-time appointments will earn both payable and nonpayable annual leave simultaneously, proportionate to service, in accordance with the plan established by the facility. Residents with intermittent appointments will not earn payable leave.

(d) In some situations, leave may be granted by the index hospital for any variety of personal reasons individually approved by the department chairman or chief of service. When constructing the VA matching leave plan, each and every circumstance and condition for granting annual leave *will be clearly defined*, and may not be dependent on a VA official's determination of the validity, urgency, necessity, or propriety of the leave request. The VA approving officials determination in granting or denying a leave request should be based only on consideration of patient care needs in sparing the services of the requester. The facility annual leave plan will specify the exact circumstances and number

of days for each type of annual leave available. If difficulty is encountered in constructing the VA matching plan because of a lack of any systematized basis for granting certain types of leave at the index hospital, then Directors will investigate the circumstances closely so as to extrapolate a workable system from the index hospital's practices. This can be accomplished by determining the average experience of the index hospital with respect to various types of leave or by taking their best estimate of the circumstances and number of days available for each type of leave. If further difficulty is encountered, the problem will be referred to the Deans Committee for resolution, and an advisory opinion may be requested of the Office of Human Resources (051).

(e) In prorating annual leave, a resident will earn, for each day in a pay status, the proportionate amount of payable leave plus the proportionate amount of non-payable leave in accordance with the plan established at the facility. The general principles regarding proration of leave credits, charges, and reductions contained in VHA Supplement to MP-4, part II, chapter 1, section B, will be followed, as applied to the amount of payable and nonpayable annual leave authorized at the facility. All annual leave will accrue and be earned proportionate to service. For example, in a nonpayable annual leave system which provides for 14 days of vacation leave and 2 days for death-in-family leave, annual leave would accrue at the rate of 16 days per year for the purposes specified. No pooling of leave is permitted on a full-time equivalent basis or through any other mechanism. All annual leave is earned by and vested in the name of an individual resident, and may not be transferred to the account of any other resident. With respect to nonpayable leave, the term "earn" is used as a matter of clarity and convenience to express the rate of accumulation of this type of leave which Directors may grant or advance to an individual resident, and implies no entitlement under the lump-sum payment provisions of 5 U.S.C. 5551 and 5552.

(f) Notwithstanding any other provision in subparagraphs (a) through (e) above, facility Directors may authorize either of two leave pool systems. Regardless of the type of pool system, the total amount of leave credited to the pool at the beginning of each academic year or leave year will be based on the proportionate amount of leave which will actually be earned by each resident according to the planned rotation schedule. All leave used will be charged to the pool and the amount of leave will be reduced accordingly. The leave pool will be carefully monitored and immediately adjusted to reflect changes in rotation schedules and staffing. Should leave usage exceed leave credited to the pool in any training year or leave year due to unforeseen circumstances, the negative balance may be carried forward into the following year and the pool will be adjusted accordingly. Similarly, if the matching leave plan provides payable leave or permits unused nonpayable leave to be carried forward into the next leave year, the positive leave pool balance may be carried forward into the following year and the pool will be adjusted accordingly. Facilities will ensure that the postgraduate levels of residents using leave fairly represent the postgraduate levels of all residents rotating through the facility. Intermittent appointments will not bar the use of leave pool arrangements; however, paid and WOC residents in exchange programs (see VHA Supplement to MP-5, pt. 11, ch. 3, sec. A, par. 3A.08e(1)) may not be included unless a written exception is granted by the Chief

Academic Affiliations Officer (14). Pool systems are not appropriate for sick leave or any other type of absence that cannot be included in a facility's matching leave plan.

1. Under the first leave pool system, which is the only leave pool system that may be authorized if any portion of the matching leave plan permits payable leave, the VA allows a designated number of residents to use leave included in the annual leave pool without regard to the amount of annual leave actually earned by those particular residents. For example, if a facility is allocated 10 positions which are encumbered by 10 different residents each quarter and the matching leave plan calls for 21 days of payable or nonpayable annual leave at each postgraduate level, a 210-day leave pool could be available for use by any 10 of the 40 residents rotating through the facility. Other teaching facilities would assume leave responsibility for the remaining 30 residents. The 10 residents for whom VA accepts leave responsibility would be identified by name at the beginning of the academic year. The VA would pay each of those residents for any leave used in accordance with the facility's matching leave plan. All such service at either the VA medical center or other teaching facility will be creditable for leave accrual purposes. A designated resident may be placed on the payroll at any time during the academic year for the purposes of utilizing VA paid annual leave. If payable leave is part of the matching leave plan, residents for whom VA accepts leave responsibility will have entitlement under the lump-sum payment provision of 5 U.S.C. 5551 and 5552 for unused payable leave. For such a resident leaving the program prematurely, lump-sum payment will be prorated to the total amount of paid training provided the individual by the VA and affiliated hospitals. To the extent practicable, prorating will be consistent with index hospital policy.

2. Under the second leave pool system, which cannot be authorized if any portion of the matching leave plan permits payable leave, residents are permitted to use leave included in the annual leave plan on a "first-come-first-served" basis without regard to the amount of leave actually earned by those particular residents. For example, if a facility is allocated 10 positions, which are encumbered by 10 different residents each quarter and the matching leave plan calls for 21 days of nonpayable annual leave at each postgraduate level, a 210-day leave pool could be available for use by any of the 40 residents rotating through the facility until the leave pool is exhausted.

3. The Chief of Staff is directly responsible for establishing controls over leave pools and leave usage and will ensure that these controls are strictly adhered to the overall administration of the annual leave program.

(3) Administration

(a) Payable and nonpayable leave will be granted and charged to residents in 1-day increments, for each calendar day of leave, requested, approved, and charged in the normal fashion per provisions of paragraph 7.05b(4). In addition, annual leave may be granted by the authorized official only when it has been approved in advance by the House Staff Review Committee or when the authorizing official is acting under criteria established by the committee. Annual leave granted for purposes which were matched as

payable leave at the index hospital will be chargeable to payable leave in the VA, and leave granted for purposes which were matched as nonpayable leave at the index hospital will be chargeable to nonpayable leave in the VA. Nonpayable leave will be granted only on such occasions and for such purposes as the index hospital grants similar leave; for example, 2 days of leave available at the index hospital to attend the funeral of a close family member will be included as 2 days of nonpayable leave in the VA annual leave system, but will be granted only if the event occurs.

(b) Facility Directors may approve the advancement of annual leave, both payable and nonpayable, to residents proportionate to expected service, not to exceed the amount of their payable and nonpayable leave yearly earning rate. Also, the amount of advanced annual leave will not exceed that which can be earned during the remainder of their VA training period. Directors are cautioned regarding the advancement of annual leave in that any excess leave, both payable and nonpayable, which has been granted and which has not been earned by a resident at the time of separation from VA rolls will require an appropriate reduction for the value thereof in the final salary payment. Service chiefs responsible for a resident's training will notify Fiscal Service within 2 days of separation if any excess annual leave over that earned has been granted. If Fiscal Service is unable to withhold the appropriate amount from the final salary check for any reason, the value of the excess annual leave taken by a resident will become a debt owed by that person to the United States and will be processed for collection.

(c) If the facility matching annual leave system provides for any portion of payable leave, then the following will apply to all residents at that facility:

1. The leave year (both for payable and nonpayable leave) will be as indicated in paragraph 7a(4) of chapter 7 to MP-5, part II.

2. Up to 120 days of unused payable leave to a resident's credit at the end of the leave year will be carried forward into the next leave year and the value thereof will be paid on separation in accordance with the lump-sum leave payment provisions of 5 U.S.C. 5551 and 5552.

3. Unused nonpayable leave to a resident's credit at the end of the leave year may be carried forward into the next leave year *if this is the practice at the index hospital*. Only the amounts and types of nonpayable leave which is the index hospital will carry forward at the end of each leave year will also be carried forward in the VA system. Not more than a combined aggregate total of 120 days of payable leave and nonpayable leave may be carried forward into the next year. If it is not the practice at the index hospital to carry forward nonpayable leave balances from one leave year to the next, which is the more common situation, then the VA annual leave plan will also follow this policy. As an alternative, the facility Director may permit VA residents to carry forward their nonpayable annual leave balances into the next calendar year and subsequently forfeit all nonpayable annual leave balances at the end of the index hospital's leave year rather than at the end of the calendar leave year. This option may be elected only where the index hospital's leave year is different than the calendar leave year, where the index hospital does

not allow the residents to carry over nonpayable annual leave, and where it is impossible to schedule the use of nonpayable annual leave so as to avoid forfeiture of such leave at the end of the calendar leave year. The use of and justification for using the delayed forfeiture date will be fully documented in the annual leave plan and all residents will be informed in advance of the forfeiture date. Issuance of a copy of the leave plan documented as indicated above to each resident will suffice for this purpose. In any event, accumulated balances of nonpayable leave are not an entitlement and will not be paid on separation.

(d) If the facility matching annual leave system provides only for nonpayable leave and contains no portion of payable leave, then the following will apply to all residents at that facility:

1. The leave year for nonpayable leave purposes will be July 1 and through June 30. Where the index hospital's leave year is different than these dates, however, the facility Director may, as an alternative, use the same leave year as that of the index hospital of nonpayable annual leave purposes. In any case, the dates of the leave year used for these purposes will be documented in the annual leave plan. Where the later leave year is used, the plan will document that this is the leave year used by the index hospital. (The leave year for other purposes, such as sick and military leave will continue to be the calendar leave year indicated in par. 7a(4) of ch. 7 to MP-5, Pt. II.)

2. Up to 120 days of unused nonpayable leave to a resident's credit at the end of the leave year may be carried forward into the next year *if this is the practice at the index hospital*. If it is not the practice at the index hospital to carry forward unused nonpayable leave balances from one leave year to the next, which is the more common situation, then the VA annual leave plan will also follow this policy. In any event, accumulated balances of nonpayable leave are not an entitlement and will not be paid on separation.

(e) Extreme care will be exercised in establishing the VA annual leave system in terms of matching the index hospital. The VA annual leave system will conform *in policy and in practice* with that of the index hospital, subject to the constraints described herein. A signed letter describing the leave system at the index hospital does not in itself constitute sufficient documentation for establishing the matching VA annual leave system. Directors will fully satisfy themselves at all times that the annual leave system established for VA residents conforms to the actual practices of the index hospital.

(f) The PAID system will accommodate the recording and compilation of *payable leave only* for full-time residents in accordance with each individual facility plan. (See coding instructions in MP-6, Pt. V, supp. No. 1.5, ch. 3. App. A.) The PAID system will not be involved in accounting for nonpayable leave except as may be incorporated in PAID instructions. Facilities will establish their own control systems to record and compile the earning and use of nonpayable leave for all residents, full-time and intermittent. The control systems established locally will provide that a strict daily record be kept, showing accumulated balance, amount used and for what purposes. Service chiefs responsible for the house officer's training are also responsible for maintaining the

records and control systems necessary with regard to nonpayable leave. The Chief of Staff is directly responsible for the accuracy and adequacy of all records maintained by service chiefs in this connection.

(4) Changes. Facilities may modify or change their leave plans only on a prospective basis, at the beginning of a pay period, or on July 1 if only nonpayable leave is involved. Facilities should make a regular annual review of their leave plan to determine its currency and accuracy.

b. Sick Leave

(1) Full-Time. The sick leave provisions for full-time physicians and dentists contained in paragraph 7.06 are applicable to sick leave for full-time residents except that the maximum amount of sick leave which may be advanced may not exceed 15 calendar days. The Chief Academic Affiliations Officer (14) may approve exceptions to these provisions under unusual circumstances when requested.

(2) Intermittent. Facility Directors may grant authorized absence not to exceed 15 days per year of training to each resident who is appointed on an intermittent basis for illness. The Chief Academic Affiliations Officer (14) may approve additional authorized absence under unusual circumstances when requested. The extent of such absence will be in proportion to service and may be authorized at any time during appointments. These absences are not an entitlement and do not accrue from year to year. The amount of these absences which may be granted will be reduced in the same manner as sick leave is charged under paragraph 7.06a. The service chief responsible for the resident's training is also responsible for controlling and documenting absences for this purpose. The Chief of Staff is directly responsible for the accuracy and adequacy of all records maintained by service chiefs in this connection.

c. Military Leave. Full-time residents whose periods of training in the VA are not limited to 1 year or less are entitled to the same military leave benefits provided full-time physicians and dentists.

d. Court Leave. Full-time residents are eligible for and will be granted court leave in the same manner as other eligible Federal employees.

e. Holidays. The holiday provisions for full-time physicians and dentists contained in paragraph 6, chapter 7, MP-5, part II, and paragraph 7.07, are applicable to residents under this paragraph.

f. Authorized Absence. The authorized absence provisions for full-time physicians and dentists in paragraph 7.08 also apply to residents under this paragraph except the provisions pertaining to education and training in paragraph 7.08h (residents may be detailed to non-VA institutions to these purposes per par. 3A.08e(2) and the provisions pertaining to participation to civic organizations in paragraph 7.08n. Absences of residents to undergo American Specialty Board and State licensure examinations will be authorized.

The amount of absence authorized will not exceed the time actually required for taking the examination and for travel to and from the place of examination. Any additional absence will be charged to annual leave, or LWOP if annual leave is not available.

Authority: 38 U.S.C. 7304, 7421

PROCEDURES FOR IMPLEMENTING ADJUSTABLE WORK HOURS FOR PART-TIME PHYSICIANS

1. PART-TIME ADJUSTABLE HOURS OF DUTY

- a. A part-time regular tour of duty, including core and non-core as defined below, will be prescheduled at the beginning of the biweekly pay period with days and times specified. This schedule may be changed or adjusted during the pay period to accommodate unforeseen needs, if such change is approved by the facility Director, or designee.
- b. Part-time physicians may, however, be authorized to work adjustable hours of duty, as indicated in subparagraph d below, provided *the total work requirement* in each biweekly pay period is met. The total work requirement is the total number of hours which an employee is required to work or otherwise account for by an appropriate form of leave or excused absence. This is the same as the total number of hours in a biweekly pay period included in the regular part-time tour of duty.
- c. The days and times in the biweekly pay period when the employee must be present unless granted an appropriate form of leave or excused absence will be identified as *core time*. In no case will core time be less than *one-fourth* of the total number of hours in the biweekly part-time tour of duty (e.g., 10 hours of a part-time tour consisting of 40 hours).
- d. Part-time physicians are not required to be present for all of the non-core portion of the regular part-time tour of duty, provided the total work requirement is met. Hours may be worked outside the tour in lieu of scheduled non-core periods and credited toward meeting the regular part-time tour of duty requirement, if appropriate approval is obtained.
- e. Several examples of how adjustable work hours may be utilized in conjunction with a prescheduled part-time tour are shown below.

2. TIME AND ATTENDANCE

- a. **Records.** All part-time physicians having adjustable hours will record their time and attendance on VA Form 4-5631a, Subsidiary Time and Attendance Report for Part-Time Physicians, which will be prepared and maintained in accordance with instructions as contained in subparagraph c below.
- b. **Leave.** The use of adjustable work hours does not affect physicians' eligibility for leave during the regular part-time tour of duty and in no way changes the supervisor's authority to approve the scheduling of leave. Leave or excused absences (including

excusing physicians for scheduled work on holidays) may be granted only for any time within the regular part-time tour of duty. Employees will not be entitled to pay for any part of the regular part-time tour of duty for which duty was not performed or accounted for by an appropriate from of leave. Where the total work requirement for an employee will not be met by the end of the biweekly pay period, the deficient time will be accounted for by an appropriate leave charge. Leave will be accrued, requested and granted in accordance with the provisions of this chapter.

c. Preparation of VA Form 4-5631a. Prior to the beginning of each biweekly pay period, two VA Forms 4-5631a (one for each week in the pay period) will be prepared for each affected part-time physician who is rendering service to the VA. The unit timekeeper will be responsible for completing the block entitled "employee name" as well as other items on that same line. Based on information provided by the employee's supervisor, the unit timekeeper will then complete the column headed "scheduled tour" and "core time" by entering the employee's prescheduled tour of duty as well as that portion of the employee's biweekly tour of duty which has been identified as "core time". This will be accomplished by making appropriate entries in the columns headed "hrs", "from" and "to" for each day on which the part-time physician is scheduled to perform duty. The two forms will then be delivered to the employee for the daily recording of the employee's duty and leave hours for each week in the biweekly pay period.

d. Verification of VA Form 4-5631a and Recording On to VA Form 4-5631

(1) Upon receipt of the properly completed and certified VA Form 4-5631a from the employee's supervisor, the designated timekeeper will ascertain that the specified "core" hours were worked, or that an appropriate leave charge was noted. It must also be determined that the "normal" hours have been accounted for by duty or appropriate leave charges. In the absence of this data, the form will be returned to the supervisor for corrective action.

(2) After verification of VA Form 4-5631a the unit timekeeper will immediately record the data onto the official VA Form 4-5631, Time and Attendance Report. When this action has been completed, the unit timekeeper will initial in the designated block on VA Form 4-5631a as an indication that all required entries for that week have been recorded on VA Form 4-5631.

(3) After all entries have been recorded on VA Form 4-5631 for both weeks in the biweekly pay period, the unit timekeeper will initial in the usual manner and deliver the form to the employee's supervisor for final certification. Thereafter, but not later than 9:00 a.m. on the Monday following the close of the biweekly pay period, the VA Form 4-5631 will be delivered to the Payroll activity for payroll processing in the usual manner.

e. Retention of VA Form 4-5631a. The VA Form 4-5631a will be filed in a folder by leave year and retained by the unit timekeeper for disposal when 3 years old.

3. RESPONSIBILITIES

a. Facility Directors. Directors at those facilities that choose to implement adjustable work hours of duty will develop local policy, procedure, and plans within the provisions of this chapter. Adjustable work hours for part-time physicians should be authorized for only those organizational elements or individual physicians where adjustable hours are determined essential for meeting patient care needs. Care should be taken to insure that each employee clearly understands that all paid work outside the regular part-time tour of duty must be officially approved and understands any other limitations prescribed by the Director.

b. Supervisors. Supervisors are responsible for the day-to-day administration of adjustable work hours. This responsibility includes insuring adequate coverage in providing necessary services and that employees are treated fairly in the matter of adjustable work hours. After each physician has properly recorded and certified attendance data on VA Form 4-563la, supervisors will review, initial, and refer this form to the unit timekeeper.

c. Employees. Employees using adjustable work hours are responsible for fulfilling their total work requirement obligation by the performance of duty or obtaining approval for an appropriate form of leave. Employees are responsible for recording and certifying as correct all entries on VA Form 4-563la pertaining to time worked, leave, or excused absence.

Prescheduled Part-Time Tour and the Utilization of Adjustable Work Hours

EXAMPLE #1

Prescheduled Part-Time Tour

An employee has a prescheduled part-time tour of 40 hours in a biweekly pay period consisting of 10 core hours and 30 non-core hours. The employee's work schedule is as follows:

WEEK 1

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted for Non-Core	Total
SU				
MO	10-2(4)	12-2(2)	10-12(2)	4
TU	10-2(4)	12-2(2)	10-12(2)	4
WE	10-2(4)		10-2 (4)	4
TH	10-2(4)	12-2(2)	10-12(2)	4
FR	10-2(4)		10-2 (4)	4
SA				

WEEK 2

SU				
MO	10-2 (4)	12-2(2)	10-12(2)	4
TU	10-2 (4)		10-2 (4)	4
WE	10-2 (4)	10-12(2)	12-2 (2)	4
TH	10-2 (4)		10-2 (4)	4
FR	10-2 (4)		10-2 (4)	4
SA				
				<hr/> 40

Utilization of Adjustable Work Hours

The employee works all core hours as scheduled (10 hours) and all non-core hours on Tuesdays and Thursdays as scheduled (12 hours). While unable to perform duty during non-core hours on Mondays and Fridays, the employee worked on an "in lieu" basis from 2-5 p.m. on each of these days (12 hours). The employee also worked from 7-10 a.m. on Wednesdays "in lieu" of non-core hours prescheduled on those days (6 hours).

Prescheduled Part-Time Tour and the Utilization of Adjustable Work Hours--continued

WEEK 1

Days	Irregular Tour ¹	Core	Non-Core	In-Lieu	Leave	Addit. ²	Total ³
SU							
MO	12-5 p.m.	2		3			5
TU	10-2 p.m.	2	2				4
WE	7-10 a.m.			3			3
TH	10-2 p.m.	2	2				4
FR	2-5 p.m.			3			3
SA							

WEEK 2

SU							
MO	12-5 p.m.	2		3			5
TU	10-2 p.m.		4				4
WE	7-12 a.m.	2		3			5
TH	10-2 p.m.		4				4
FR	2-5 p.m.			3			3
SA							
		<hr/>	<hr/>	<hr/>	0	0	<hr/>
		10	12	18			40

¹This is the irregular tour the employee actually worked and will be recorded under the "Irregular Tours" column on VA Form 4-5631, Time and Attendance Report.

²This represents hours worked in addition to those in the prescheduled tour. These hours are recorded under the "Pay-US" column on VA Form 4-5631.

³These hours are recorded under the "PAY-RG" column on VA Form 4-5631.

EXAMPLE #2

Prescheduled Part-Time Tour

An employee has a prescheduled part-time tour of 50 hours in a biweekly pay period consisting of 13 core hours and 37 non-core hours. The employee's work schedule is as follows:

WEEK 1

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted For Non-Core	Total
SU				
MO	9-2 (5)	12-2 (2)	9-12(3)	5
TU	9-2 (5)		9-2 (5)	5
WE	9-2 (5)	9-12 (3)	12-2 (2)	5
TH	9-2 (5)		9-2 (5)	5
FR	9-2 (5)	12-2 (2)	9-12(3)	5
SA				

WEEK 2

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted For Non-Core	Total
SU				
MO	9-2(5)		9-2 (5)	5
TU	9-2 (5)	9-11(2)	11-2 (3)	5
WE	9-2 (5)	12-2 (2)	9-12(3)	5
TH	9-2 (5)	9-11(2)	11-2 (3)	5
FR	9-2 (5)		9-2 (5)	5
SA				
				<hr/> 50

Utilization of Adjustable Work Hours

Employee worked all core hours as scheduled except on Wednesdays of each week (8 hours worked). The employee accounted for the remaining core hours by requesting 3 hour annual leave on Wednesday of the first week and 2 hours AL on Wednesday of the second week (5 hours leave). Employee worked non-core hours on Tuesdays and Thursdays of each week as scheduled (16 hours). While unable to work non-core hours on Mondays and Fridays of each week as scheduled, the employee performed duty on an "in lieu" basis from 2-6 p.m. on those days (16 hours). The employee also worked from 10-3 p.m. on Sunday of the second week "in lieu" of prescheduled non-core hours on Wednesdays of each week (5 hours).

WEEK 1

Days	Irregular Tour	Core	Non- Core	In-Lieu	Leave	Addit.	Total
SU							
MO	12-6 p.m.	2		4			6
TU	9-2 p.m.		5				5
WE	9-12 p.m.				3-AL		3
TH	9-2 p.m.		5				5
FR	12-6 p.m.	2		4			6
SA							

WEEK 2

SU							
MO	2-6 p.m.			4			4
TU	9-2 p.m.	2	3				5
WE	12-2 p.m.				2-AL		2
TH	9-2 p.m.	2	3				5
FR	2-6 p.m.			4			4
SA	10-3 p.m.			<u>5</u>			<u>5</u>
		<u>8*</u>	<u>16</u>	<u>21</u>	<u>5</u>		<u>50</u>

*Employee accounted for 13 core hours by 8 hours duty and 5 hours of leave.

Prescheduled Part-Time Tour and the Utilization of Adjustable Work Hours--Continued

EXAMPLE #3

Prescheduled Part-Time Tour

An employee has a prescheduled part-time tour of 30 hours in a biweekly pay period consisting of 8 core hours and 22 non-core hours. The employee's work schedule as follows:

WEEK 1

Days	Irregular Tour (Time and Hours)	Core	Hours Accounted For Non-Core	Total
SU				
MO	10-1(3)		10-1(3)	3
TU	10-1(3)	10-12(2)	12-1(1)	3
WE	10-1(3)		10-1(3)	3
TH	10-1(3)	10-12(2)	12-1(1)	3
FR	10-1(3)		10-1(3)	3
SA				

WEEK 2

SU				
MO	10-1(3)		10-1(3)	3
TU	10-1(3)		10-1(3)	3
WE	10-1(3)	10-12(2)	12-1(1)	3
TH	10-1(3)		10-1(3)	3
FR	10-1(3)	10-12(2)	12-1(1)	3
SA				
				<hr/> 30

Prescheduled Part-Time Tour and the Utilization of Adjustable Work Hours--Continued

Utilization of Adjustable Work Hours

The employee worked all core hours as scheduled except Thursday of the first week for which 2 hours sick leave were requested (6 hours worked and 2 hours leave). Employee worked from 2-5 p.m. on Mondays "in lieu" of non-core hours scheduled on those days (6 hours). The employee worked other non-core hours as scheduled. Because of an emergency, the employee was called back to work from 2-6 p.m. on Saturday of the second week (4 hours).

WEEK 1

Days	Irregular Tour	Core	Non-Core	In-Lieu	Leave	Addit.	Total
SU							
MO	2-5 p.m.			3			3
TU	10-1 p.m.	2	1				3
WE	10-1 p.m.		3				3
TH	10-1 p.m.		1		2-SL		3
FR	10-1 p.m.		3				3
SA							

WEEK 2

SU							
MO	2-5 p.m.			3			3
TU	10-1 P.M.		3				3
WE	10-1 P.M.	2	1				3
TH	10-1 P.M.		3				3
FR	10-1 P.M.	2	1				3
SA	2-6 p.m.	<u> </u>	<u> </u>	<u> </u>	<u> </u>	<u>4</u>	<u>4</u>
		6	16	6	2	4	34**

**Hours accounted for during pay period: 34

Basic work requirement: 30

Authorized additional hours of intermittent duty: 4

**FLEXIBLE AND COMPRESSED WORK SCHEDULES FOR NURSES, NURSE
ANESTHETISTS, PHYSICIAN ASSISTANTS AND EXPANDED-FUNCTION
DENTAL AUXILIARIES**

1. SCOPE

This appendix implements Veterans Health Administration policies and procedures concerning flexible and compressed work schedules for VHA title 38 health care employees. All of the provisions of this appendix apply to full and part-time nurses, graduate nurse technicians, nurse technicians pending graduation, nurse anesthetists, PA's (physician assistants) and EFDA's (expanded function dental auxiliaries) appointed under authority of 38 U.S.C. 7401(l) or 7405(a)(1.). Only the provisions on compressed work schedules apply to physicians, dentists, podiatrists, optometrists, or nonphysician facility Directors. This appendix does not apply to student nurse technicians, nurses or nurse anesthetists on the Baylor Plan (see sec. E of ch. 3, this part), student nurse technicians, nurses or nurse anesthetists on the Baylor Plan (see sec. E of ch. 3, this part). Instructions for compressed work schedules for employees in Central Office have been published in VA Directive 5610.3.

Authority: 38 U.S.C. 7304, 7421

2. REFERENCES

- a. Federal Employees Flexible and Compressed Work Schedules Act of 1982 (Pub. L. 97-221, approved July 23, 1982, 5 U.S.C. 6120-6133.)
- b. 5 CFR 2472
- c. VA Manual MP-5, part I, chapter 610

3. DEFINITIONS

- a. **Basic Work Requirement** means the number of hours during a biweekly pay period, excluding overtime hours, which an employee is required to work or required to account for by leave or otherwise.
- b. **Biweekly Pay Period** means the pay period covering two administrative workweeks.
- c. **Compressed Schedule** means:
 - (1) In the case of a full-time employee, an 80-hour biweekly work requirement which is scheduled for less than 10 workdays.

(2) In the case of a part-time employee, a biweekly basic work requirement which is scheduled for less than 10 workdays.

d. **Core Time Band** means those designated hours and days during the biweekly pay period when an employee on a flexible schedule must be present for work.

e. **Flexible Time Band** means that part of the schedule of working hours during which, under procedures contained herein, employees may choose their time of arrival and departure from the worksite, within limits consistent with the duties and responsibilities of their position.

f. **Flextime** means a system of work scheduling which splits the workday into two distinct kinds of time: the core time band and the flexible time band.

g. **Flexitour** means a flexible schedule in which an employee, having once selected starting and stopping times within the flexible time bands, continues to adhere to these times. Employees may request different starting and stopping times. Such tours, and changes to such tours, however, must be approved by the employee's supervisor and documented in accordance with the procedures contained herein.

h. **Modified Flexitour** is a type of flextime where the employee selects a starting time and stopping time within the established flexible time band and, once selected, this becomes the employee's assigned schedule. The employee, however, is given 15 minutes of flexibility on either side of the selected arrival time. The actual time of arrival becomes the employee's starting time for the day. For example, an employee selecting 7:30 a.m. as a starting time under the modified flexitour may report for work anytime between 7:15 a.m. and 7:45 a.m. If the employee arrives at 7:20 a.m., this becomes the employee's starting time for that day. Assuming a half-hour lunch period, the departure time would be 3:50 p.m. If the same employee reports at 7:05 a.m., his or her starting time would not begin until 7:15 a.m. The same employee arriving at 7:50 a.m. is 5 minutes tardy. Under the modified flexitour, the starting time, and changes in the starting time, must be approved by the supervisor and documented in accordance with the procedures contained herein.

i. **Overtime Work** means:

(1) For the purpose of flextime, overtime means all hours of work in excess of 8 hours in a day or 40 hours in a week which are officially ordered or approved in advance.

(2) For the purposes of compressed work schedules, overtime work means:

(a) For full-time employees, the term refers to officially ordered or approved hours of work performed outside of, and in addition to, the employee's basic work requirement.

(b) For part-time employees, overtime hours are those hours of work after which a full-time employee on the same type of compressed schedule would begin receiving overtime pay.

j. **Work Unit** means an entity located in one place with a specific mission and with homogeneous procedures or technology, and headed by a supervisor or manager authorized to certify the employee's VA Form 4-5631, Time and Attendance Report, and other agency documents for reporting employees' work schedules, such as VA Form 4-5283, Weekly Attendance Record (Flexitime).

Authority: 38 U.S.C. 7421, 5 U.S.C. 6122, 6127.

4. PLANNING FLEXIBLE AND COMPRESSED WORK SCHEDULES

See VA Manual MP-5, part I, chapter 610, section B, paragraph 4.

Authority: 38 U.S.C. 7421; 5 U.S.C. 6122, 6127.

5. RESPONSIBILITIES AND APPROVAL AUTHORITY

a. **Facility Directors** are authorized to approve flexible and compressed work schedules for employees under their jurisdiction. They are also responsible for ensuring that approved flexible and compressed work schedules are consistent with the criteria contained herein.

b. **Supervisors** are responsible for assuring that sufficient numbers and kinds of personnel are scheduled to be present to carry out operations in an efficient and economical manner. To meet this responsibility, supervisors may place restrictions on the starting and stopping times of individual employees. Supervisors are also responsible for taking appropriate action if an employee under his or her jurisdiction fails to meet his or her responsibilities under subparagraph c.

c. **Employees** using flexible or compressed work schedules are responsible for fulfilling their obligations to account for a full day's work. Abuse of flexible or compressed work schedules may result in restrictions on the employee's starting and stopping times, termination of the employee's flexible schedule and/or appropriate disciplinary action.

Authority: 38 U.S.C. 7421; 5 U.S.C. 6122, 6127.

6. FLEXITIME

a. **Establishment of Flexible Schedules.** See paragraph 5a.

b. **Policy**

(1) The establishment of flexible tours of duty is limited to flexitour and modified flexitour, as defined in paragraphs 3g and h.

(2) Core time bands shall be determined by field facility Directors; however, core time bands should be the same for employees performing similar work under similar situations. Facility Directors may authorize deviations from approved core times in individual cases.

(3) The Facility Director, or designee, may determine the numbers and kinds of employees on duty during the core hours of any given day. Further, to assure essential services are provided outside core hours, the field facility Director, or designee, may restrict the employee's choice of arrival and departure time if participation in flexible schedules proves disruptive or otherwise impedes efficient operations.

(4) A flexible work schedule under paragraph 6 of this section and a compressed workweek under paragraph 7 of this appendix may not be established in the same work unit.

(5) The modified flexitour may not be used in combination with on-call duty (see ch. 3, sec. A, this part).

(6) Flexible schedules shall not be established if they would result in the payment of any additional premium pay for work to an employee, or group of employee, who would not normally be entitled to premium pay (e.g., night differential, OT, holiday pay, etc.).

(7) If it is found that a particular flexible schedule has had or would have an adverse impact (see par. 8), the facility Director shall not establish or shall discontinue the flexible schedule(s) of affected employees.

c. **Time and Attendance Records.** See MP-5, part I, chapter 610, section B, paragraph 6c.

d. **Computation of Additional Pay for Employees on Flexible Schedules**

(1) Overtime Hours. Paragraph 3i(l) of this appendix contains a definition of overtime hours for employees on flexible schedules. Such employees, however, are also eligible for call-back overtime if they meet the conditions outlined in sections A and/or D of chapter 3, this part.

(2) Additional Pay for Night Work

(a) Full-Time employees. If the core time band is during daytime hours (i.e., 6 a.m. to 6 p.m.) and the core time plus the flexible time are less than 8 daytime hours, the employee is entitled to tour differential for the difference between 8 hours and the available number of daytime hours in the tour of duty. The employee, however, is entitled to the appropriate tour differential for the entire tour if at least 4 or more hours of the tour fall between 6 p.m. and 6 a.m.

(b) Part-Time employees. A part-time employee is entitled only to tour differential for nightwork performed during his or her basic work requirement.

(3) Additional Pay for Holiday Work

(a) A full-time employee on a flexible schedule, who performs nonovertime work on a day designated as his or her holiday, is entitled to his or her rate of basic pay, plus the applicable amount of additional pay for holiday work authorized under chapter 3 of this part, for each hour of nonovertime holiday work.

(b) A part-time employee on a flexible schedule is entitled to the applicable amount of additional pay for holiday work, authorized under chapter 3 of this part, for the number of hours he or she was scheduled to work that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday (see par. 6e(2)).

(4) Additional Pay for Saturday or Sunday Work. An employee on a flexible schedule, who performs work on a Saturday or Sunday, shall be entitled to additional pay for such work under the provisions of sections A and D of chapter 3, this part.

e. **Absence and Leave**

(1) **Sick and Annual Leave**

(a) For employees on flexible schedules, time off during the flexible and core time bands must be charged to the appropriate leave category, compensatory time off or excused absence, if appropriate.

(b) The maximum amount of sick or annual leave an employee may apply to his or her basic work requirement for any given day is the number of hours the employee is scheduled to work that day.

(2) **Holidays.** A full-time employee on a flexible schedule, relieved from working on a day designated as his or her holiday, shall be entitled to pay with respect to that day for 8 hours. A part-time employee prevented from working on the holiday shall be entitled to basic pay for the number of hours he or she was scheduled to work that day, up to a maximum of 8 hours. Part-time employees are not entitled to a day off in lieu of the holiday.

(3) **Excused and Unexcused Absences.** On the flexitour, the employee's selected starting and stopping times shall be used to determine the amount of excused or unexcused absence to be granted and/or charged. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has actually reported for work. In the latter instance, the actual time the employee reports, and his or her basic work requirement for that day, shall be used in making the determination.

f. Travel

Time spent traveling away from the official duty station by an employee during the hours and days of his or her regularly scheduled tour of duty is considered hours of employment for the purposes of this appendix. Time spent in travel status by an employee outside of the regularly scheduled hours is compensable under the following conditions:

(1) Travel outside regularly scheduled duty hours must be officially ordered or approved and must meet one of the four conditions specified in section 7453(e)(5) of title 38, United States Code; and

(2) On the flexitour, the employee's selected starting and stopping times shall be used to determine if the employee is traveling during his or her regularly scheduled hours. On the modified flexitour, the employee's selected starting and stopping times shall be used unless the employee has already reported for work. In this instance, the actual time the employee reports, and his or her basic work requirements for that day, shall be used in making the determination.

Authority: 38 U.S.C. 7304; 38 U.S.C. 7453(e); 7421; and 5 U.S.C. 6122-6124

7. COMPRESSED WORKWEEKS

a. Establishing Compressed Workweeks. See paragraph 5a.

b. Policy

(1) A compressed workweek may only be established if all daily tours of duty within the compressed workweek are in whole hour increments, excluding the meal period (e.g., eight 10-hour tours, eight 9-hour and one 8-hour tour, or six 12-hour and two 4-hour tours of duty each biweekly period). If, however, the meal period is considered hours of work under this chapter, any daily tour of duty on such a day must be in whole hour increments, including the meal period.

(2) Any previous method used to establish a compressed workweek (i.e., compensatory time off in lieu of regular overtime shall be discontinued upon the establishment of a compressed workweek under this paragraph.

(3) A compressed workweek under paragraph 7 of this appendix and a flexible work schedule under paragraph 6 of this section may not be simultaneously established in the same work unit.

(4) A compressed workweek shall not be established in a work unit if it will overlap an on-call tour of duty. A compressed workweek will not be established if it would result in an entitlement to premium pay to which an employee would not normally be entitled (e.g., night differential, overtime, holiday pay, etc.).

(5) Participation

(a) An employee in a work unit of an organization which is not covered by a collective bargaining agreement shall not be required to participate in any compressed workweek unless a majority of employees in the work unit who would be included in the compressed workweek have voted to be included. For the purpose of this vote, a majority is obtained whenever the number of affirmative votes exceeds one-half the number of employees in the work unit proposed for inclusion in the compressed workweek. The specific procedures for this vote are left to the approving official. Use of written secret ballots are encouraged, however, since paragraph 9 contains a prohibition against the coercion of employees making such determinations.

(b) Exclusion because of personal hardship

1. If, upon written request of an employee, the official authorized to approve compressed workweeks, or designee, determines that participation of an employee in a compressed workweek would be a personal hardship, the approving official, or designee, shall:

a. Except the employee from the compressed workweek; or

b. Reassign the employee to the first position in the affected organization:

(1) Which becomes vacant after such determination

(2) Which is not included in a compressed workweek

(3) For which the employee is qualified: and

(4) Which is acceptable to the employee.

2. Determinations under subparagraph (b) shall be made no later than 10 days after the written request is received by the appropriate deciding official.

(6) The approving official may exclude from compressed workweeks any employee or group of employees whose coverage would create an adverse impact (see MP-5, pt. I, ch. 610, sec. B, par. 8).

c. Computation of Additional Pay

(1) **Overtime Hours.** For full-time employees, the term overtime hours refers to hours of work officially ordered or approved and performed outside of, and in addition to, the basic work requirement. For part-time employees, overtime hours are those hours of work after which a full-time employee on a similar work schedule would begin receiving overtime pay. Employees on

compressed workweeks are eligible also for call-back overtime. To receive such pay, however, they must be called back to work at a time which is outside of and unconnected with their basic work requirements (see ch. 3, this part).

(2) Tour Differential

(a) Employees are entitled to the tour differential for the entire tour if at least 4 hours of such tour fall between 6 p.m. and 6 a.m.

(b) If less than 4 hours of such tour fall between 6 p.m. and 6 a.m., the employee will be entitled to tour differential for each hour of service performed between those hours.

(3) Additional Pay for Holiday Work. An employee on a compressed work schedule who performs nonovertime work on the day designated as his or her holiday is entitled to his or her basic rate of pay, plus premium pay equal to basic pay for that holiday work.

(4) Saturday Pay. An employee on a compressed schedule is entitled to additional pay for Saturday work if he or she performs work for which such additional pay is authorized (see MP-5, pt. 11, ch. 3, sec. D).

(5) Sunday Pay. An employee on a compressed schedule who performs work during a period of service, a part of which is performed on Sunday, is entitled to Sunday premium pay for the entire period of service.

d. Absence and Leave

(1) Holidays

(a) Full-time employees

1. When a holiday falls on a workday in the employee's compressed workweek that workday shall be designated as his or her holiday.

2. When a full-time employee on a compressed schedule has 2 nonworkdays in the administrative workweek, the first day off shall be considered the employee's "Sunday" and the second day off shall be considered the employee's "Saturday." If the holiday falls on the employee's "Sunday," the first workday following that day shall be designated as the employee's day off in lieu of the holiday. If the holiday falls on the employee's "Saturday," the first workday preceding that day shall be designated as the employee's day off in lieu of the holiday. These rules shall apply whether or not the employee's days off actually fall on Saturday or Sunday.

3. When a full-time employee on a compressed workweek has 3 days off in the administrative workweek and the holiday falls on one of these nonworkdays, the following rules shall apply:

a. When the holiday falls on the first or second day off of the administrative workweek, the following workday should be designated as the day off in lieu of the holiday.

b. When the holiday falls on the third day off of the administrative workweek, the preceding workday shall be designated as the day off in lieu of the holiday.

(b) If a holiday falls on a day during a part-time employee's compressed workweek, and if the employee is prevented from working, he or she is entitled to pay for the number of hours he or she was scheduled to work that day. A part-time employee is not entitled to a day off in lieu of the holiday.

(2) **Leave.** Time off from an employee's basic work requirement must be charged to the appropriate leave category unless the employee is authorized compensatory time off or excused absence.

(3) **Excused and Unexcused Absences.** The amount of excused or unexcused absence shall be based on the employee's established compressed work schedule in effect for the period of the absence.

Authority: 38 U.S.C. 7304; 7421; 7453; and 5 U.S.C. 6127-6129.

8. CRITERIA AND REVIEW. See MP-5, part I, chapter 610, section B, paragraph 8.

Authority: 38 U.S.C. 7304; 7421; and 5 U.S.C. 6130-6131.

9. PROHIBITION OF COERCION. See VA Manual MP-5, part I, chapter 610, section B, paragraph 9.

Authority: 38 U.S.C. 7304; 5 U.S.C. 6132.